

**ASSEMBLY BILL**

**No. 1684**

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**Introduced by Assembly Member Emmerson**

February 23, 2007

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An act to amend Sections 26202.6, 26206.8, 34090.6, 34090.8, 53160, and 53162 of, and to add Section 6254.19 to, the Government Code, relating to local government records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1684, as introduced, Emmerson. Local government records: recordings.

(1) Existing law requires counties, cities, cities and counties, and special districts, when installing new security systems, to purchase and install equipment capable of storing recorded data for at least one year, with an exception for economic and technological feasibility. For each entity of local government, existing law requires that videotapes or recordings of routine video monitoring made by a security camera system operated as part of a local public transit system shall be retained for one year, unless the videotapes or recordings are evidence in any claim filed or any pending litigation or record an event that was or is the subject of an incident report, in which case they shall be retained until the matter is resolved.

This bill would reduce the retention requirement from one year to 210 days. It would require each entity of local government, when installing new security systems, to purchase and install the best available technology with respect to storage capacity that is both economically and technologically feasible at that time.

(2) The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon

request of any person, to provide a copy of any public record unless the record is exempt from disclosure. The act makes certain information in specified law enforcement, investigatory, and security records exempt from disclosure.

This bill would provide that the act shall not be construed to require a local agency to disclose a recording of routine video monitoring except that a local agency shall disclose such a recording to a federal, state, or local law enforcement agency, a victim of a crime, an insurance carrier, or any person who suffered bodily injury, property damage, or loss as the result of a crime, unless the disclosure would endanger the safety of a witness or other person involved in an investigation conducted by a law enforcement agency, or unless disclosure would endanger the successful completion of a law enforcement investigation. By imposing new duties on a local agency to disclose a recording of routine video monitoring in the specified circumstances, this bill would impose a state-mandated local program.

(3) The California Public Records Act authorizes state and local agencies to charge a person requesting a copy of a disclosable public record fees covering the direct costs of duplication, or a statutory fee, if applicable.

This bill, notwithstanding any other provision of law, would authorize a local agency to charge additional costs for a copy of a record of routine video monitoring.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(5) This bill would make legislative findings to demonstrate that the limitation on the public's right of access to the records of public agencies imposed by these provisions is necessary to protect public safety.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6254.19 is added to the Government  
2 Code, to read:

6254.19. (a) Nothing in this chapter shall be construed to require a local agency to disclose a recording of routine video monitoring, as defined in Section 34090.6, except that a local agency shall disclose these recordings to a federal, state, or local law enforcement agency, a victim of a crime or an authorized representative of a victim of a crime, an insurance carrier against which a claim has been or might be made, or any person who suffered bodily injury, property damage, or loss as the result of a crime, unless the disclosure would endanger the safety of a witness or other person involved in an investigation conducted by a law enforcement agency, or unless disclosure would endanger the successful completion of a law enforcement investigation.

(b) A recording of routine video monitoring shall not be considered a record subject to subdivision (f) of Section 6254.

(c) Notwithstanding any other provision of law, the fee a local agency charges for a copy of a record of routine video monitoring may include all costs of retrieving and duplicating the record.

SEC. 2. Section 26202.6 of the Government Code is amended to read:

~~26202.6. (a) Notwithstanding the provisions of Sections 26202, 26205, and 26205.1 any other provision of law, the head of a department of a county, after one year 210 days, may destroy recordings of routine video monitoring, and after 100 days may destroy recordings of telephone and radio communications maintained by the department. This, subject to all of the following conditions:~~

~~(1) This destruction shall be approved by the legislative body, and the written consent of the agency attorney shall be obtained.~~

~~In the event that~~

~~(2) If the recordings are evidence in any claim filed or any pending litigation, they shall be preserved until the claim or pending litigation is resolved.~~

~~(b) For~~

~~(3) If the recordings are of an event that was or is the subject of an incident report, they shall be preserved until the incident is resolved.~~

~~(4) If the county utilizes a security system that was purchased or installed prior to January 1, 2007, the recordings shall be preserved for as long as the installed technology allows.~~

~~(b) For purposes of this section, "recordings section:~~

1 (1) “Department” includes a public safety communications  
2 center operated by the county and the governing board of any  
3 special district whose membership is the same as the membership  
4 of the board of supervisors.

5 (2) “Recordings of telephone and radio communications” means  
6 the routine daily taping and recording of telephone communications  
7 to and from a county and all radio communications relating to the  
8 operations of ~~the departments~~ a department.

9 ~~(e) For purposes of this section, “routine~~

10 (3) “Routine video monitoring” means videotaping by a video  
11 or electronic imaging system designed to record the regular and  
12 ongoing operations of ~~the departments described in subdivision~~  
13 ~~(a) a department~~, including, *but not limited to*, mobile in-car video  
14 systems, jail observation and monitoring systems, and building  
15 security taping systems.

16 ~~For purposes of this section, “department” includes a public~~  
17 ~~safety communications center operated by the county and the~~  
18 ~~governing board of any special district whose membership is the~~  
19 ~~same as the membership of the board of supervisors.~~

20 (Amended by Stats. 2003, Ch. 564, Sec. 3. Effective January 1,  
21 2004.)

22 SEC. 3. Section 26206.8 of the Government Code is amended  
23 to read:

24 26206.8. ~~(a) When installing new security systems, a transit~~  
25 ~~agency operated by a county shall only purchase and install~~  
26 ~~equipment capable of storing recorded images for at least one year,~~  
27 ~~unless all of the following conditions apply: the best available~~  
28 ~~technology with respect to storage capacity that is both~~  
29 ~~economically and technologically feasible at that time.~~

30 ~~(1) The transit agency has made a diligent effort to identify a~~  
31 ~~security system that is capable of storing recorded data for one~~  
32 ~~year.~~

33 ~~(2) The transit agency determines that the technology to store~~  
34 ~~recorded data in an economically and technologically feasible~~  
35 ~~manner for one year is not available.~~

36 ~~(3) The transit agency purchases and installs the best available~~  
37 ~~technology with respect to storage capacity that is both~~  
38 ~~economically and technologically feasible at that time.~~

39 ~~(b) Notwithstanding any other provision of law, videotapes or~~  
40 ~~recordings made by security systems operated as part of a public~~

1 transit system shall be retained for one year, unless one of the  
2 following conditions applies:

3 (1) ~~The videotapes or recordings are evidence in any claim filed~~  
4 ~~or any pending litigation, in which case the videotapes or~~  
5 ~~recordings shall be preserved until the claim or the pending~~  
6 ~~litigation is resolved.~~

7 (2) ~~The videotapes or recordings recorded an event that was or~~  
8 ~~is the subject of an incident report, in which case the videotapes~~  
9 ~~or recordings shall be preserved until the incident is resolved.~~

10 (3) ~~The transit agency utilizes a security system that was~~  
11 ~~purchased or installed prior to January 1, 2004, or that meets the~~  
12 ~~requirements of subdivision (a), in which case the videotapes or~~  
13 ~~recordings shall be preserved for as long as the installed technology~~  
14 ~~allows.~~

15 SEC. 4. Section 34090.6 of the Government Code is amended  
16 to read:

17 34090.6. (a) ~~Notwithstanding the provisions of Section 34090~~  
18 ~~any other provision of law~~, the head of a department of a city or  
19 city and county, after ~~one year~~ 210 days, may destroy recordings  
20 of routine video monitoring, and after 100 days may destroy  
21 recordings of telephone and radio communications maintained by  
22 the department. ~~This, subject to all of the following conditions:~~

23 (1) ~~This~~ destruction shall be approved by the legislative body,  
24 and the written consent of the agency attorney shall be obtained.  
25 ~~In the event that~~

26 (2) ~~If~~ the recordings are evidence in any claim filed or any  
27 pending litigation, they shall be preserved until *the claim or*  
28 *pending litigation is resolved.*

29 ~~(b) For~~

30 (3) ~~If the recordings are of an event that was or is the subject~~  
31 ~~of an incident report, they shall be preserved until the incident is~~  
32 ~~resolved.~~

33 (4) ~~If the city or city and county utilizes a security system that~~  
34 ~~was purchased or installed prior to January 1, 2007, the recordings~~  
35 ~~shall be preserved for as long as the installed technology allows.~~

36 (b) ~~For purposes of this section, "recordings section:~~

37 (1) *"Department" includes a public safety communications*  
38 *center operated by the city or city and county.*

39 (2) *"Recordings of telephone and radio communications" means*  
40 *the routine daily taping and recording of telephone communications*

1 to and from a city; ~~or city and county, or department,~~ and all radio  
2 communications relating to the operations of ~~the departments a~~  
3 ~~department.~~

4 ~~(e) For purposes of this section, “routine~~

5 ~~(3) “Routine video monitoring” means videotaping by a video~~  
6 ~~or electronic imaging system designed to record the regular and~~  
7 ~~ongoing operations of the departments described in subdivision~~  
8 ~~(a) a department, including, but not limited to, mobile in-car video~~  
9 ~~systems, jail observation and monitoring systems, and building~~  
10 ~~security taping systems.~~

11 ~~(d) For purposes of this section, “department” includes a public~~  
12 ~~safety communications center operated by the city or city and~~  
13 ~~county.~~

14 ~~(Amended by Stats. 2003, Ch. 564, Sec. 6. Effective January 1,~~  
15 ~~2004.)~~

16 SEC. 5. Section 34090.8 of the Government Code is amended  
17 to read:

18 34090.8. ~~(a) When installing new security systems, a transit~~  
19 ~~agency operated by a city or city and county shall only purchase~~  
20 ~~and install equipment capable of storing recorded images for at~~  
21 ~~least one year, unless all of the following conditions apply: the~~  
22 ~~best available technology with respect to storage capacity that is~~  
23 ~~both economically and technologically feasible at that time.~~

24 ~~(1) The transit agency has made a diligent effort to identify a~~  
25 ~~security system that is capable of storing recorded data for one~~  
26 ~~year.~~

27 ~~(2) The transit agency determines that the technology to store~~  
28 ~~recorded data in an economically and technologically feasible~~  
29 ~~manner for one year is not available.~~

30 ~~(3) The transit agency purchases and installs the best available~~  
31 ~~technology with respect to storage capacity that is both~~  
32 ~~economically and technologically feasible at that time.~~

33 ~~(b) Notwithstanding any other provision of law, videotapes or~~  
34 ~~recordings made by security systems operated as part of a public~~  
35 ~~transit system shall be retained for one year, unless one of the~~  
36 ~~following conditions applies:~~

37 ~~(1) The videotapes or recordings are evidence in any claim filed~~  
38 ~~or any pending litigation, in which case the videotapes or~~  
39 ~~recordings shall be preserved until the claim or the pending~~  
40 ~~litigation is resolved.~~

1     ~~(2) The videotapes or recordings recorded an event that was or~~  
2 ~~is the subject of an incident report, in which case the videotapes~~  
3 ~~or recordings shall be preserved until the incident is resolved.~~

4     ~~(3) The transit agency utilizes a security system that was~~  
5 ~~purchased or installed prior to January 1, 2004, or that meets the~~  
6 ~~requirements of subdivision (a), in which case the videotapes or~~  
7 ~~recordings shall be preserved for as long as the installed technology~~  
8 ~~allows.~~

9     SEC. 6. Section 53160 of the Government Code is amended  
10 to read:

11     53160. (a) The head of a *department of a* special district, after  
12 ~~one year~~ 210 days, may destroy recordings of routine video  
13 monitoring, and after 100 days may destroy recordings of telephone  
14 and radio communications maintained by the special district. ~~This,~~  
15 *subject to all of the following conditions:*

16     (1) *This* destruction shall be approved by the legislative body,  
17 and the written consent of the agency attorney shall be obtained.  
18 ~~In the event that~~

19     (2) *If* the recordings are evidence in any claim filed or any  
20 pending litigation, they shall be preserved until *the claim or*  
21 pending litigation is resolved.

22     ~~(b) For~~

23     (3) *If the recordings are of an event that was or is the subject*  
24 *of an incident report, they shall be preserved until the incident is*  
25 *resolved.*

26     (4) *If the special district utilizes a security system that was*  
27 *purchased or installed prior to January 1, 2007, the recordings*  
28 *shall be preserved for as long as the installed technology allows.*

29     (b) For purposes of this ~~article~~, *“recordings section:*

30     (1) *“Department” includes a public safety communications*  
31 *center operated by the special district.*

32     (2) *“Recordings of telephone and radio communications” means*  
33 *the routine daily taping and recording of telephone communications*  
34 *to and from a special district, and all radio communications relating*  
35 *to the operations of the special district a department.*

36     ~~(e) For purposes of this article, “routine~~

37     (3) *“Routine video monitoring” means videotaping by a video*  
38 *or electronic imaging system designed to record the regular and*  
39 *ongoing operations of the special district a department, including,*

1 *but not limited to*, mobile in-car video systems, jail observation  
2 and monitoring systems, and building security taping systems.

3 ~~(d) For purposes of this article, “special district” shall have the~~  
4 ~~same meaning as “public agency,” as that term is defined in Section~~  
5 ~~53050.~~

6 (Added by Stats. 2003, Ch. 564, Sec. 9. Effective January 1,  
7 2004.)

8 SEC. 7. Section 53162 of the Government Code is amended  
9 to read:

10 53162. ~~(a) When installing new security systems, a transit~~  
11 ~~agency operated by a special district shall only purchase and install~~  
12 ~~equipment capable of storing recorded images for at least one year,~~  
13 ~~unless all of the following conditions apply: the best available~~  
14 ~~technology with respect to storage capacity that is both~~  
15 ~~economically and technologically feasible at that time.~~

16 ~~(1) The transit agency has made a diligent effort to identify a~~  
17 ~~security system that is capable of storing recorded data for one~~  
18 ~~year.~~

19 ~~(2) The transit agency determines that the technology to store~~  
20 ~~recorded data in an economically and technologically feasible~~  
21 ~~manner for one year is not available.~~

22 ~~(3) The transit agency purchases and installs the best available~~  
23 ~~technology with respect to storage capacity that is both~~  
24 ~~economically and technologically feasible at that time.~~

25 ~~(b) Notwithstanding any other provision of law, videotapes or~~  
26 ~~recordings made by security systems operated as part of a public~~  
27 ~~transit system shall be retained for one year, unless one of the~~  
28 ~~following conditions applies:~~

29 ~~(1) The videotapes or recordings are evidence in any claim filed~~  
30 ~~or any pending litigation, in which case the videotapes or~~  
31 ~~recordings shall be preserved until the claim or the pending~~  
32 ~~litigation is resolved.~~

33 ~~(2) The videotapes or recordings recorded an event that was or~~  
34 ~~is the subject of an incident report, in which case the videotapes~~  
35 ~~or recordings shall be preserved until the incident is resolved.~~

36 ~~(3) The transit agency utilizes a security system that was~~  
37 ~~purchased or installed prior to January 1, 2004, or that meets the~~  
38 ~~requirements of subdivision (a), in which case the videotapes or~~  
39 ~~recordings shall be preserved for as long as the installed technology~~  
40 ~~allows.~~



1 SEC. 8. If the Commission on State Mandates determines that  
2 this act contains costs mandated by the state, reimbursement to  
3 local agencies and school districts for those costs shall be made  
4 pursuant to Part 7 (commencing with Section 17500) of Division  
5 4 of Title 2 of the Government Code.

6 SEC. 9. The Legislature finds and declares that Section 1 of  
7 this act, which adds Section 6254.19 to the Government Code,  
8 imposes a limitation on the public's right of access to the meetings  
9 of public bodies or the writings of public officials and agencies  
10 within the meaning of Section 3 of Article I of the California  
11 Constitution. Pursuant to that constitutional provision, the  
12 Legislature makes the following findings to demonstrate the interest  
13 protected by this limitation and the need for protecting that interest:

14 In order to protect public safety, it is necessary to restrict access  
15 to recordings of routine video monitoring that could be used by  
16 an individual or group to assess patterns of movement of a person  
17 or law enforcement in order to plan and carry out a crime or  
18 terrorist act.